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5
6 UNITED STATES BANKRUPTCY COURT
7
8

Southern District of California

9 In re:

Case No 18-01254-CL13

10 ROBERT MATTHEW PERKOVICH and
JERI LYNN PERKOVICH,,

Chapter 13

11 Debtors,

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**DECLARATION IN SUPPORT OF
MOTION FOR ATTORNEY FEES
UNDER CALIFORNIA CIVIL
CODE 1717**ROBERT MATTHEW PERKOVICH and
JERI LYNN PERKOVICH,,

Debtors,

Date: March 13, 2019

vs.

Time: 10:00am

SANTANDER CONSUMER USA, INC.,

Dept: 5

Respondent.

I, Michael G. Doan, declare following declaration of facts based upon my own knowledge and if called upon, can testify competently thereto except where the same are stated upon my information and belief, as to which facts I believe them to be true. No waiver of the attorney client privilege or work product doctrine is intended by any of the statements made in this declaration.

1. I am in my 25th year of practicing law as a California Attorney.
2. I graduated from the University of San Diego in 1991 with a Bachelor's Degree in Accounting and graduated from California Western School of Law in 1994 with a Juris Doctorate Degree.
3. I am licensed to practice in all State Courts in the State of California as well as all four

(4) Federal and Bankruptcy Courts throughout the State of California.

4. I have filed bankruptcy cases throughout all four (4) Bankruptcy Districts in California.

5. I have filed in excess of 6,000 consumer cases and hundreds of adversary proceedings.

6. I have been a Board Certified Specialist in Consumer Bankruptcy Law by the American Board of Certification and as recognized by the Board of Legal Specialization of the California State Bar for over fifteen (15) years.

7. I belong to numerous bankruptcy organizations, including but not limited to the National Association of Consumer Bankruptcy Attorneys, American Bar Association, American Bankruptcy Institute, referral panel member of the San Diego County Bar Association and North County Bar Association.

8. I have been published numerous times by the 9th Circuit Court of Appeals, Bankruptcy Appellate Panel, and District Court. I have had many appeals affirmed and reversed.

9. I have published hundreds of bankruptcy articles for the Bankruptcy Law Network and have held dozens of bankruptcy seminars for consumers at both my office and libraries.

10. I am the owner and founding partner of Doan Law Firm, which in most years since 2001, has been the largest filer of consumer bankruptcy cases in the Southern District of California.

11. I hold a Mortgage Broker's License, formerly ran First Platinum Properties with several sales agents, am a member of the San Diego Association of Realtors, SANDICOR, and have substantial real estate experience representing buyers and sellers in sales transactions and in brokering mortgages throughout San Diego County and Riverside County.

12. I filed the first Chapter 7 Bankruptcy and first Chapter 13 Bankruptcy cases in the Southern District of California under BAPCPA.

13. I was also one of the initial graduates of Max Gardner's Bankruptcy Camp. Gardner's Boot Camp is an intensive five(5) day, twelve(12) hour/day, training session in bankruptcy litigation conducted on Gardner's 160-acre Farm located deep in the South Mountains of Western North Carolina near the small town of Casar. Gardner is widely

1 recognized as the leading lawyers in America in the areas of Predatory Mortgage
 2 Servicing and the collection of discharged debts in consumer bankruptcy cases. His Boot
 3 Camps have been featured in the NY Times, the Washington Post, Business Week, CNN,
 4 and Nightline. As a Proud Bootcamp graduate, Michael Doan and fellow Bootcampers
 5 are bringing considerable reform to creditor misconduct in bankruptcy cases throughout
 6 the United States.

7 14. On January 22, 2019, I attempted to settle the claim prior to court involvement via email
 8 to the email address designated in the proof of claim. To date there has been no response.

9 15. To date, discovery continues to remain outstanding and long overdue.

10 16. The objection aided the Chapter 13 by reducing his work to object to the claim as
 11 required under 1302(b)(1) per 704(a)5 and recently recognized by the Supreme Court in
 12 Midland Funding, LLC v. Johnson, 137 S. Ct. 1407, 1410 (2017), "*The bankruptcy*
 13 *system treats untimeliness as an affirmative defense and normally gives the trustee the*
 14 *burden of investigating claims to see if one is stale.*"

15 17. The objection was proper and provided a benefit to the Debtors since it avoided any
 16 future liability in the event of discharge pursuant to 1328(a).

17 18. The proactive approach by Doan Law Firm resulted in a disallowed claim, mooted any
 18 potential future liability by Debtors on the claim upon discharge, conserved Chapter 13
 19 Trustee resources, and seeks compensation outside of the estate in doing so.

20 19. My hourly rate is \$550.00 per hour.

21 20. The CCC1717 motion has approximately 6.1 hours of time per attachment "A."

22 21. Although this case may suggest a multiplier or enhancement⁴ to hourly rates in light of

24 25 ⁴.... "court is permitted to adjust the lodestar up or down using a "multiplier" based on the
 criteria listed in §330 and its consideration of the Kerr factors not subsumed within the initial calculation
 of the lodestar." In re Buckridge, 367 B.R. 191, 202 (Bankr. C.D. Cal. 2007) See also Blum, 465 U.S. at
 898-901 (reversing an upward multiplier based on factors subsumed in the lodestar determination); Dang
 v. Cross, 422 F.3d 800, 812 (9th Cir. 2005) (observing that a court, in its discretion, may "adjust the
 lodestar amount after considering other factors that bear on the reasonableness of the fee"); Cunningham,
 879 F.2d at 487 (stating that "Kerr factors that are not subsumed may support adjustments in rare cases");
Cortes v. Metro. Life Ins. Co., 380 F.Supp.2d 1125, 1128 (CD. Cal. 2005) (noting that the lodestar may be
 adjusted upward or downward using a multiplier based on the Kerr factors).

1 the favorable and quick results achieved, the risk of non-payment by the creditor, and the
2 novelty of the CCC1717 issue involved in the Southern District, enhancements are **being**
3 **waived** at this time, and only normal and customary hourly rates are requested.

4 22. Total fees and costs to date are approximately \$3,335.20 as provided in exhibit "A."

5
6 I declare under penalty of perjury that the foregoing is true and correct to the best of my
7 knowledge and belief and this Declaration was executed in the County of San Diego.

8
9 Dated: February 4, 2019 /s/ Michael G. Doan
Michael G. Doan

ATTACHMENT "A"

ATTACHMENT "A"

| <u>Date</u> | <u>Staff</u> | <u>Category</u> | <u>Task</u> | <u>Time</u> | <u>Rate</u> | <u>Amount</u> |
|--------------|--------------|---------------------|--|-------------|-------------|--------------------|
| 12/7/2018 | MGD | Case Administration | Review proof of claim with client | 0.2 | \$550.00 | \$ 110.00 |
| 12/7/2018 | MGD | Case Administration | Prepare claim objection. File. Serve | 0.8 | \$550.00 | \$ 440.00 |
| 1/16/2019 | MGD | Case Administration | Prepare and file Order on claim | 0.2 | \$550.00 | \$ 110.00 |
| 1/22/2019 | MGD | Case Administration | Order signed and reviewed | 0.2 | \$550.00 | \$ 110.00 |
| 1/22/2019 | MGD | Case Administration | Email to claimant re settlement | 0.2 | \$550.00 | \$ 110.00 |
| 2/4/2019 | MGD | Case Administration | CCC 1717 drafting, filing, service | 2.6 | \$550.00 | \$ 1,430.00 |
| PENDING | MGD | Case Administration | Travel and hearing attendance. Prepare Order | 1.8 | \$550.00 | \$ 990.00 PENDING |
| TOTAL | | | | 6.0 | | \$ 3,300.00 |
| COSTS | | | | | | |
| Postage | | | | | | \$16.00 |
| Paper/Copies | | | | | | \$19.20 |
| TOTAL | | | | | | \$ 3,335.20 |